

JUDGEMENT


JUL 1 1 26 PM '97

HOLME ROBERTS & OWEN LLP
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

FILED DISTRICT COURT
Third Judicial District

OCT 16 1996

Attorneys for Plaintiff, D. Forrest Greene

By  SALT LAKE COUNTY
District Clerk

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

)
)
)
)
)
)
)
)
)
)

2209180

**PARTIAL SATISFACTION
OF JUDGMENT**

Civil No. 960903017
Judge Anne M. Stirba

PLEASE TAKE NOTICE that a \$20,000.00 portion of Plaintiff D. Forrest Greene's judgment against Defendant Joseph P. Waldholtz has been satisfied.

DATED this 15th day of October, 1996.

HOLME ROBERTS & OWEN LLP


Brent V. Manning, #2075

Attorneys for Plaintiff, D. Forrest Greene

State of Utah)

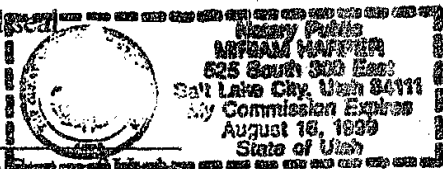
: ss.

County of Salt Lake)

On October 15th, 1996, before me, a Notary Public, personally appeared Brent V. Manning, personally known to me, or proved on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal

Miriam Harper
Notary Public, In and For the State of Utah



My Commission expires: August 16, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 1996, I caused a true and correct copy of the
PARTIAL SATISFACTION OF JUDGMENT to be served via First Class mail, postage pre-paid,
upon:

Joseph P. Waldholtz
District of Columbia Jail
1901 D Street S.E.
Washington D.C. 20002

Miriam Harper

RECEIVED
FEDERAL JUDICIAL
COURT
OFFICE OF CLERK

Third Judicial District

Jul 1 1 26 PM '97
HOLME ROBERTS & OWEN LLP
Brent V. Manning, #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

SEP 27 1996

SALT LAKE CITY

JUDGEMENT

Attorneys for D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH P. WALDHOLTZ,

Defendant.

2209186

FINAL JUDGMENT

Civil No. 960903017CV

Judge Anne M. Stirba


On July 25, 1996, the Court granted plaintiff D. Forrest Greene's Motion for Summary Judgment against defendant Joseph P. Waldholtz, pursuant to Rule 56 of the Utah Rules of Civil Procedure.

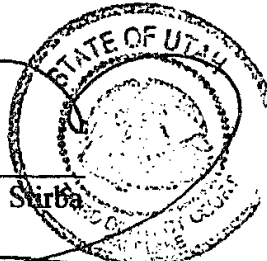
On August 29, 1996, plaintiff D. Forrest Greene served defendant Joseph P. Waldholtz with a Notice to Appear or Appoint Counsel. The Rule 4-506(3) twenty-day period for entering an appearance has lapsed with no appearance entered by Mr. Waldholtz and no notice of the appointment of counsel.

Final Judgment is hereby entered in favor of plaintiff and against defendant in the amount of \$3,987,426.00 plus \$175.00 in costs of suit.

Dated this 21th day of September, 1996.

By The Court:


The Honorable Anne M. Surba
Third District Court



Judgment Debtor's Address:

Joseph P. Waldholtz
6509 Darlington Road
Pittsburgh, PA 15217

00:04:39:1230

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE CLERK

HOLME ROBERTS & OWEN LLP
Brent V. Manning, #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

Attorneys for Plaintiff

FILED
DISTRICT COURT
96 SEP 24 PM 5:00
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY *[Signature]*
DEPUTY CLERK

IN THE THIRD DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH P. WALDHOLTZ,

Defendant.

CERTIFICATE OF SERVICE

Civil No. 960903017CV

Judge Anne M. Stirba

I hereby certify that on this 24th day of September, 1996, I caused true and correct copies of the Final Judgment and Memorandum of Costs to be served via First Class mail, postage pre-paid, upon:

Joseph P. Waldholtz
6509 Darlington Road
Pittsburgh, PA 15217

[Signature: Diana Calacina]

HOLME ROBERTS & OWEN LLP
Brent V. Manning (2075)
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED
DISTRICT COURT
96 SEP 24 PM 4:59
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY *[Signature]*
DEPUTY CLERK

Attorneys for Plaintiff D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff

v.

JOSEPH P. WALDHOLTZ,

Defendant.

MEMORANDUM OF COSTS

Civil No. 960903017CV
Judge Anne M. Stirba

Plaintiff D. Forrest Greene respectfully submits the following Memorandum of Costs.

Plaintiff incurred \$120.00 for costs related to the filing of the Complaint against
defendant Joseph P. Waldholtz and \$55.00 for service of process on defendant.

DATED this 24th day of September, 1996.

HOLME ROBERTS & OWEN LLP

By: *[Signature]*

Brent V. Manning
Attorneys for Plaintiff

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF CLERK

HOLME ROBERTS & OWEN LLC
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED
DISTRICT COURT
96 AUG 29 AM 10:52
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY *[Signature]*
DEPUTY CLERK

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

NOTICE TO APPEAR OR
APPOINT COUNSEL

Civil No. 960903017

Judge Anne M. Stirba

Pursuant to the Court's Order dated August 26, 1996 and Rule 4-506(3) of the Utah Code of Judicial Administration, Plaintiff D. Forrest Greene hereby gives notice to defendant Joseph P. Waldholtz of his responsibility to retain another attorney or appear in person before this Court. No further proceedings shall be held in the matter until 20 days have elapsed from the date of this Notice.

DATED this 29th day of August, 1996.

HOLME ROBERTS & OWEN LLC

[Signature]
Brent V. Manning, #2075

Attorneys for Plaintiff, D. Forrest Greene

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, 1996, I cause a true and correct copy of the foregoing NOTICE TO APPEAR OR APPOINT COUNSEL, via First Class mail, postage prepaid, to the following:

Joseph Waldholtz
6509 Darlington Road
Pittsburgh, PA 15217

Russell Johnson

RECEIVED
GENERAL ELECTION
COUNTY CLERK
OFFICE OF CLERK

JUL 1 1 27 PM '97

FILED DISTRICT COURT
Third Judicial District

AUG 26 1996

By [Signature]
SALT LAKE COUNTY
County Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,	:	ORDER
Plaintiff,	:	CASE NO.960903017
vs.	:	
JOSEPH P. WALDHOLTZ,	:	
Defendant.	:	

The above-entitled matter comes before the Court pursuant to the proposed final judgment, and a memorandum of costs of plaintiff, D. Forest Greene.

According to the certificate of service, a copy of the proposed final judgment and memorandum of costs was mailed to Gregory G. Skordas, counsel for defendant, Joseph P. Waldholtz, on August 7, 1996. No objection to the proposed final judgment and memorandum of costs was filed by Mr. Skordas.

On August 7, Mr. Skordas filed a "Notice of Withdrawal of Counsel".

Pursuant to Rule 4-506 of the Utah Code of Judicial Administration, in a civil case counsel may withdraw from a pending case without the approval of court, except when (a) a motion has

been filed and is pending before the court, or (b) a certificate of readiness for trial has been filed.

In this matter the order granting plaintiff's motion for summary judgment was entered on July 25, 1996. Thus, no motion was pending before the Court at the time Mr. Skordas filed this notice of withdrawal and he was therefore entitled to withdraw from the case without the approval of the Court. Rule 4-506(1).

Once an attorney withdraws from a case, opposing counsel must comply with subsection (3) of Rule 4-506. Pursuant to subsection (3) of Rule 4-506:

[W]hen an attorney. . . withdraws from the cases or ceases to act as an attorney, opposing counsel must notify, in writing, the unrepresented client of his/her responsibility to retain another attorney or appear in person before opposing counsel can initiate further proceedings against the client. A copy of the written notice shall be filed with the court and no further proceedings shall be held in the matter until 20 days have elapsed from the date of filing.

In this case plaintiff's counsel did not serve the notice to appear or appoint counsel on the defendant following Mr. Skordas' withdrawal from the case. Thus, the Court cannot at this time consider the proposed final judgment or the memorandum of costs. The Court can consider the foregoing only after plaintiff's counsel complies with Rule 4-506(3) and 20 days have elapsed from the date of filing the notice to appear or appoint.

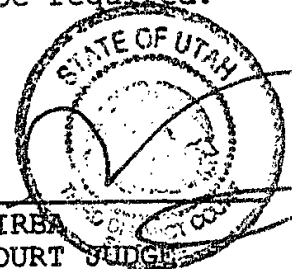
Accordingly, the Court orders plaintiff to comply with Rule 4-506(3). After 20 days have elapsed from the filing of the notice, plaintiff may re-submit the proposed final judgment and memorandum of costs for the Court's consideration. Mr. Waldholtz shall have ten days following the re-submission of the proposed final judgment and memorandum of costs, to object to either or both of them. If he fails to timely object in accordance with this order, then he will be deemed to have waived his right to do so. No further action shall be taken by the Court until plaintiff has complied with this order.

This signed minute entry constitutes the order regarding the matters addressed herein. No further order shall be required.

Dated this 26th day of August, 1996:



ANNE M. STIRBA
DISTRICT COURT JUDGE



GREENE V. WALDHOLTZ

PAGE FOUR

ORDER

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Order, postage prepaid, to the following, this _____ day of August, 1996:

Brent V. Manning
Attorney for Plaintiff
111 E. Broadway, Suite 1100
Salt Lake City, Utah 84111

Gregory G. Skordas
Attorney for Defendant
111 E. Broadway, Suite 800
Salt Lake City, Utah 84111

Joseph Waldholtz
6509 Darlington Road
Pittsburgh, Pennsylvania 15217

FEDERAL ELECTION
COMMISSION
OFFICE OF THE CLERK

HOLME ROBERTS & OWEN LLC
Brent V. Manning #20737
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

FILED DISTRICT COURT
Third Judicial District

AUG 26 1996

By

SALT LAKE COUNTY

Deputy Clerk

FILED
DISTRICT COURT
96 AUG -8 AM 11:29
SALT LAKE COUNTY
DISTRICT
CLERK

Attorneys for Plaintiff

IN THE THIRD DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH P. WALDHOLTZ,

Defendant.

CERTIFICATE OF SERVICE

Civil No. 960903017CV

Judge Anne M. Stirba

I hereby certify that on this 7th day of August, 1996, I caused true and correct
copies of the Final Judgment, and Memorandum of Costs to be served via hand-delivery upon:

Gregory G. Skordas
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, UT 84111

Ranell Johnson

F. CLAY
FEDERAL ELECTION
COMMISSION
OFFICE OF THE CLERK

HOLME ROBERTS & OWEN LLC

Brent V. Manning (2078) 97
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED DISTRICT COURT
Third Judicial District

AUG 26 1996

By

Deputy Clerk

FILED
26 AUG -8 AM 11:23
DISTRICT
CLERK

Attorneys for Plaintiff D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff

v.

JOSEPH P. WALDHOLTZ,

Defendant.

MEMORANDUM OF COSTS

Civil No. 960903017CV
Judge Anne M. Stirba

Plaintiff D. Forrest Greene respectfully submits the following Memorandum of Costs.

Plaintiff incurred \$120.00 for costs related to the filing of the Complaint against
defendant Joseph P. Waldholtz and \$55.00 for service of process on defendant.

DATED this 2nd day of August, 1996.

HOLME ROBERTS & OWEN LLC

By

Brent V. Manning
Attorneys for Plaintiff

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
OFFICE OF THE ATTORNEY GENERAL

FILED DISTRICT COURT
Third Judicial District

AUG 26 1996

By

SALT LAKE COUNTY

County Clerk

FILED

96 AUG -8 4:11:28

THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY

CITY CLERK

JUL 1 1 27 PM '97
HOLME ROBERTS & OWEN LLC
Brent V. Manning, #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

Attorneys for D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH P. WALDHOLTZ,

Defendant.

FINAL JUDGMENT

Civil No. 960903017CV
Judge Anne M. Stirba

Filed Unsigned

On July 25, 1996, the Court granted plaintiff D. Forrest Greene's Motion for Summary Judgment against defendant Joseph P. Waldholtz, pursuant to Rule 56 of the Utah Rules of Civil Procedure.

Final Judgment hereby entered in favor of plaintiff and against defendant in the amount of \$3,987,426.00 plus \$175.00 in costs of suit.

Dated this ____ day of August, 1996.

By The Court:

The Honorable Anne M. Stirba
Third District Court

Judgment Debtor's Address:

Joseph P. Waldholtz
c/o Allegheny County Jail
950 Second Avenue
Pittsburgh, Pennsylvania 15219

Holme Robert & Owen LLC
ATTORNEYS • AT • LAW

Boulder
Colorado Springs
Denver
Salt Lake City
London
Moscow

111 East Broadway
Suite 1100
Salt Lake City, UT 84111
801 521-5800
Fax 801 521-9639

Brent V. Manning

FILED DISTRICT COURT
Third Judicial District

AUG 26 1996

By

Deputy Clerk

August 8, 1996

VIA HAND DELIVERY

The Honorable Anne M. Stirba
240 East 400 South, #304
Salt Lake City, UT 84111

RE: Greene v. Waldholtz, Civil No. 960903017

Dear Judge Stirba:

I filed a Final Judgment yesterday regarding the above-referenced case and referenced Mr. Waldholtz's address as c/o Allegheny County Jail, 950 Second Avenue, Pittsburgh, Pennsylvania 15219. However, pursuant to the Notice of Withdrawal of Counsel recently filed by Gregory W. Skordas, Mr. Waldholtz's address is now 6509 Darlington Road, Pittsburgh, PA 15217.

Very truly yours,

Brent V. Manning

BVM/rj

cc. Gregory W. Skordas, Esq.
Joseph P. Waldholtz

Gregory G. Skordas (3865)
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, Utah 84111-2304
Telephone: (801) 530-1500
Facsimile: (801) 530-1520
Attorney for Defendant

FILED
DISTRICT COURT
05 AUG -7 AM 11:46
CLERK OF DISTRICT COURT
BY *M. Chome*
DEPUTY CLERK

**In The Third Judicial District Court
In And For Salt Lake County, State of Utah, Division I**

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH PHILLIP WALDHOTLZ,

Defendants.

**NOTICE OF WITHDRAWAL
OF COUNSEL**

Civil No. 960903017

Judge Anne M. Stirba

Comes now Gregory G. Skordas of the firm of Watkiss Dunning & Watkiss, P.C., and
hereby withdraws as counsel for the Defendant above-named.

DATED this 6 day of August, 1996.

WATKISS DUNNING & WATKISS, P.C.

Gregory G. Skordas

Gregory G. Skordas

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August, 1996, I mailed a true and correct copy of the foregoing **NOTICE OF WITHDRAWAL OF COUNSEL**, by United States first class mail, postage pre-paid, to the following:

Brent V. Manning
Holme Roberts & Owen
111 East Broadway, Suite 1100
Salt Lake City, UT 84111

Joseph P. Waldholtz
6509 Darlington Road
Pittsburgh, PA 15217



Watkiss Dunning & Watkiss, P.C.

HOLME ROBERTS & OWEN LLC
Brent V. Manning, #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

FILED
DISTRICT COURT
96 AUG -7 AM 11:07
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY Debra Koch
DEPUTY CLERK

Attorneys for Plaintiff

IN THE THIRD DISTRICT COURT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

vs.

JOSEPH P. WALDHOLTZ,

Defendant.

CERTIFICATE OF SERVICE

Civil No. 960903017CV

Judge Anne M. Stirba

I hereby certify that on this 7th day of August, 1996, I caused true and correct
copies of the Final Judgment, and Memorandum of Costs to be served via hand-delivery upon:

Gregory G. Skordas
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, UT 84111

Ronald Johnson

HOLME ROBERTS & OWEN LLC
Brent V. Manning (2075)
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED
DISTRICT COURT
96 AUG -7 AM 11:07
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY Sally Koch
DEPUTY CLERK

Attorneys for Plaintiff D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff

v.

JOSEPH P. WALDHOLTZ,

Defendant.

MEMORANDUM OF COSTS

Civil No. 960903017CV
Judge Anne M. Stirba

Plaintiff D. Forrest Greene respectfully submits the following Memorandum of Costs.

Plaintiff incurred \$120.00 for costs related to the filing of the Complaint against
defendant Joseph P. Waldholtz and \$55.00 for service of process on defendant.

DATED this 2nd day of August, 1996.

HOLME ROBERTS & OWEN LLC

By

Brent V. Manning
Attorneys for Plaintiff

JUDGEMENT

FILED DISTRICT COURT
Third Judicial District

JUL 25 1996

By

SALT LAKE COUNTY

Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

~~PROPOSED~~ ORDER GRANTING
SUMMARY JUDGMENT IN FAVOR
OF PLAINTIFF AND AGAINST
DEFENDANT

Civil No. 960903017

Judge Anne M. Stirba

220 9186

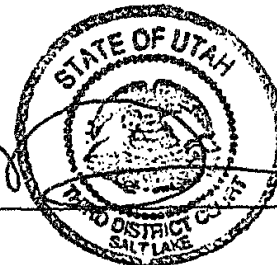
7-26-96

8:08 AM

This matter came before the Court on plaintiff's Motion for Summary Judgment which was filed and served by hand delivery on June 27, 1996. Defendant Joseph P. Waldholtz failed to file any opposition to said Motion. The Court, after having reviewed the pleadings, plaintiff's Motion and supporting Affidavit, hereby enters its Order granting summary judgment in favor of plaintiff and against defendant in the amount of \$3,987,426.00, plus plaintiff's costs of suit herein.

DATED this 25th day of July, 1996.

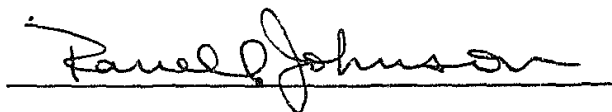
Honorable Anne M. Stirba
Judge, Third District Court



CERTIFICATE OF SERVICE

I hereby certify that I caused to be hand delivered the foregoing Proposed Order Granting
Summary Judgment in Favor of Plaintiff and Against Defendant, this 18th day of July, 1996, to:

Gregory G. Skordas
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, UT 84111



HOLME ROBERTS & OWEN LLC
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED
DISTRICT COURT
95 JUL 18 PM 4:07
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY Carol Kock
DEPUTY CLERK

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

NOTICE TO SUBMIT FOR DECISION

Civil No. 960903017

Judge Anne M. Stirba

On June 27, 1996, Plaintiff, D. Forrest Greene, filed and served by hand delivery his Motion for Summary Judgment and Request for Hearing in the above referenced matter. Defendant's opposition was due on or before July 8, 1996. See Utah C.J.A. 4-501(1)(b) and Rule 6(a) Utah R. Civ. P. The time having lapsed for defendant Joseph P. Waldholtz to respond to the Motion for Summary Judgment and defendant having failed to respond, plaintiff hereby files this Notice to Submit for Decision pursuant to Rule 4-501(1)(d) Utah C.J.A..

DATED this 18th day of July, 1996.

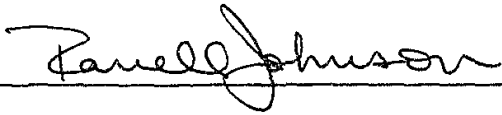
HOLME ROBERTS & OWEN LLC

Brent V. Manning (By Anne M. Stirba #5660)
Brent V. Manning, #2075
Attorneys for Plaintiff, D. Forrest Greene

CERTIFICATE OF SERVICE

I hereby certify that I caused to be hand delivered the foregoing Notice to Submit for
Decision this 18th day of July, 1996, to:

Gregory G. Skordas
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, UT 84111



HOLME ROBERTS & OWEN LLC
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

FILED
'96 JUN 27 AM 11 30
THIRD DISTRICT COURT
BY Ball's Koch
DEPUTY CLERK

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

AFFIDAVIT OF
D. FORREST GREENE

Civil No. 960903017

Judge Anne M. Stirba

STATE OF UTAH

COUNTY OF SALT LAKE

: ss.

I, D. Forrest Greene, of legal age, having been duly sworn, and having personal knowledge of the facts asserted herein, certify and state as follows:

1. I am now a resident of Salt Lake County, State of Utah.

2. From January 21, 1994 through October 12, 1995, I made loans to

Joseph P. Waldholtz and paid his obligations at his request through checks and wire transfers

in the total amount of not less than \$3,987,426.00, as summarized in Complaint Exhibit "A."

Complaint Exhibit "A" is an accurate summary of my advances to or for the benefit of Waldholtz, with the exception that the transfer on 7/7/94 of \$10,000.00 to Malcolm Shannon was through a personal check, not a wire transfer as listed.

3. True and correct copies of checks and documents authorizing or evidencing wire transfers I made to Joseph P. Waldholtz or for his benefit are compiled in Complaint Exhibit "B."

4. I authenticate the handwriting and/or signature as mine in the following documents in Complaint Exhibit "B": control numbers F001153, F001146, F001145, F001144, F001143, F001142, F001140, F001139, F001138, F001137, F001136, F001135, F001134, F001133, F001132, F001131, F001130, and F001129 and the checks dated 7/7/94 (Wells Fargo Bank, \$10,000) and 8/25/94 (Wells Fargo Bank, \$55,000).

5. I authenticate the following wire transfer forms, contained in Complaint Exhibit "B," as authentic business records which I received from the indicated brokerage confirming or authorizing the transfer of funds: control numbers F001152, F001144, F001143, F001142, F001139.

6. The wire transfer invoice records reflect charges to my account in the amounts indicated on the record: these invoices are included in Complaint Exhibit "B" immediately following documents with control numbers F001144 (invoice dated 7/7/94), F001143 (invoice dated 8/8/94), F001142 (invoice dated 9/2/94), F001139 (invoices dated

9/19/94 and 10/18/94), F001135 (invoice dated 11/8/94), F001134 (invoice dated 11/14/94), F001133 (invoice dated 1/9/95), and F001132 (invoice dated 4/11/95).

7. Funds were removed from my accounts pursuant to the following requests for wire transfers, copied in Complaint Exhibit "B": control numbers F001153, F001145, F001144, F001143, F001142, F001139, F001138, F001137, F001136, F001135, F001134, F001133, F001132, F001131, F001130, and F001129.

8. As a result of and as reflected by the checks, authorizations, invoices, and requests identified in ¶¶ 4-7, a total of \$3,987,426.00 was transferred from my accounts to accounts designated by defendant Joseph P. Waldholtz.

9. During this period from January 21, 1994 through October 12, 1995, Joseph P. Waldholtz was married to my daughter, Enid Greene, and I trusted him as a member of the family.

10. From January 1994 through October 12, 1995, Joseph P. Waldholtz repeatedly called me from Washington, D.C. and/or Salt Lake City, and visited me in Salt Lake City. During these calls and visits he persuaded me to loan him money and pay his obligations based on the following misrepresentations, among others:

a. That he was the beneficiary of a Waldholtz Family Trust worth approximately \$325 million and that he received a substantial monthly income from this trust.

b. That he was temporarily unable to have access to funds from the Waldholtz Family Trust due to litigation with other family members.

c. That he would soon repay all of the money he borrowed from me with funds he would receive from the Waldholtz Family Trust.

d. That he would use the money he borrowed in January and February 1994 to assist his mother, who overspent one of her accounts as a victim of a telemarketing scheme, and that the Waldholtz Family Trust could not be used to help his mother because it was tied up and as a result of his parents' divorce, his mother was barred from receiving trust funds. The money borrowed in January and February 1994 would be used to discharge these obligations.

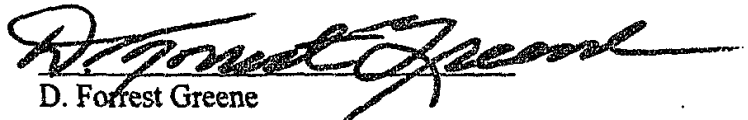
e. That he would use the money he borrowed to help his mother when she was tricked by a convicted con-man, because for the above reasons the Waldholtz Family Trust could not be used to assist her.

11. In addition, I learned either from Joe Waldholtz or from my daughter Enid that Joe Waldholtz had purportedly given her a gift of approximately \$5 million, approximately at the time of their marriage.


12. None of the claims listed in paragraphs 10 and 11 were true at the time they were communicated to me. I trusted Joe Waldholtz and did not know that he was lying to me and to my daughter during that period. Had it not been for the close family relationship we then enjoyed, I would not have relied on Waldholtz's statements, without

outside verification. If I had known that Joseph P. Waldholtz was lying about these claims, about why he wanted the money, or about his ability to repay the loans, I would not have advanced the money I did.

Executed this 26th day of June, 1996, at Salt Lake City, Utah.


D. Forrest Greene

SUBSCRIBED AND SWORN TO before me this 26th day of June, 1996.


Notary Public
Residing at:

My Commission Expires:

Sept. 5, 1999



DEPUTY CLERK

2. Defendant Joseph P. Waldholtz ("Waldholtz") was a resident of Pennsylvania at the time the Complaint was filed. See Answer ¶ 2.

3. Venue in this district is appropriate since plaintiff is a resident of Salt Lake County and all or part of this cause of action arose in this County.

4. This Court has jurisdiction over defendant pursuant to Utah Code Ann. § 78-27-24 (1995) because defendant was a resident of the State of Utah at the time this cause of action arose. Defendant conducted business in the State of Utah from which this cause of action arose and defendant caused injury to plaintiff in Utah in part during the time plaintiff was a resident of Utah.

5. Beginning on January 21, 1994 and continuing through October 12, 1995, plaintiff loaned to defendant, or paid obligations of the defendant at defendant's request, amounts totaling \$3,987,426.00 (the "Loan Amount"). A summary of the checks and wire transfers from plaintiff to, or for the benefit of Waldholtz, is attached to the Complaint as Exhibit "A." Documents evidencing each transfer are attached to the Complaint as Exhibit "B." Greene Affidavit ¶ 2-8.

6. At the time the plaintiff loaned money to, or paid obligations for the benefit of defendant, defendant was married to plaintiff's daughter and occupied a position of trust and confidence with plaintiff giving rise to fiduciary duties by defendant to plaintiff. Greene Affidavit ¶ 9.

7. Defendant exploited his close family relationship, his position of trust and confidence and breached his fiduciary duty to plaintiff by inducing him to advance the Loan Amount to

defendant based upon, but not limited to, the following material misrepresentations, all of which were false when made:

a. That he was the beneficiary of a Waldholtz Family Trust which had a value of approximately \$325 million (with substantial monthly income for his benefit).

b. That the money from the Waldholtz Family Trust was temporarily unavailable to Waldholtz but that he would shortly repay all borrowed funds with money he would receive from the Waldholtz Family Trust.

c. That his mother had been the victim of a "telemarketing scheme" which caused her to "overspend" or overdraft one or more of her accounts. Money was not available from the Waldholtz Family Trust to rectify this because it was "tied up" and due to his parents' divorce, his mother was barred from receiving trust funds. The money borrowed in January and February 1994 would be used to discharge these obligations;

d. That his mother had been duped by a con-man who was then in jail and that for the same reasons this too could not then be rectified with the Waldholtz Family Trust money and that the amount borrowed would be used to discharge these obligations.

Greene Affidavit ¶¶ 10-12.

8. In addition, at approximately the time of Waldholtz's marriage to Mr. Greene's daughter, Enid Greene, (August 1993), Mr. Waldholtz purported to have given Enid Greene a gift of approximately \$5 million which gift in fact had not occurred. Greene Affidavit ¶¶ 11-12.

9. Waldholtz made the above misrepresentations repeatedly during the period from January 1994 through October 12, 1995. These misrepresentations were made in person in Salt Lake City and by telephone from the defendant in Washington, D.C. and/or Salt Lake City to the plaintiff.

10. Plaintiff relied on the truthfulness of the foregoing representations when he loaned defendant the Loan Amount. Had plaintiff known that the foregoing representations were false, that Waldholtz did not intend to use the money for the purpose stated and that Waldholtz had no ability to repay the money plaintiff loaned to him, plaintiff would never have loaned any money to Waldholtz. Greene Affidavit ¶ 12.

11. As a result of Waldholtz's fraudulent misrepresentations and breach of fiduciary duty plaintiff has been damaged in the amount of \$3,987,426.00. Greene Affidavit ¶ 8, 12.

12. Waldholtz has refused to respond to allegations of fraud and breach of fiduciary duty, instead asserting his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah. Answer ¶¶ 5-10.

INTRODUCTION

Defendant abused his fiduciary relationship as plaintiff's former son-in-law and fraudulently induced plaintiff D. Forrest Greene to advance him \$3,987,426.00 from January 21, 1994 through October 12, 1995. Mr. Greene trusted defendant and materially relied on defendant's misrepresentation of the purpose of the loans and his ability to repay them. Defendant does not deny these allegations, but refuses to respond, claiming his rights under the Fifth Amendment of the United States Constitution on the ground that any statement made by him regarding this matter may tend to

incriminate him in the criminal proceedings and investigations presently pending against him. His refusal, however, does not preclude this Court from considering the clear evidence of defendant's misrepresentation and fraud. Defendant's refusal to respond gives rise to an adverse inference of liability. The Court should grant plaintiff an order of summary judgment based on the adverse inference from defendant's refusal to respond and the uncontested evidence of fraudulent misrepresentation and breach of fiduciary duty.

ARGUMENT

I. This Court has Proper Jurisdiction Over the Defendant

Defendant's answer contests jurisdiction, however, this Court has jurisdiction under the Utah Long Arm Statute. The Utah Code provides broad jurisdiction "to ensure maximum protection to citizens of this state," "deemed necessary because of technological progress which has substantially increased the flow of commerce between the several states." Utah Code Ann. § 78-27-22 (1992). Utah courts have jurisdiction over claims arising from "the transaction of any business within this state" or "the causing of any injury within this state whether tortious or by breach of warranty." Utah Code Ann. § 78-27-24(1), (3) (1995). Each of these provisions authorizes jurisdiction over the defendant.

Defendant transacted business within Utah from which this cause of action arose. From January 21, 1994 through October 12, 1995, defendant visited the plaintiff in Salt Lake City and made phone calls to the plaintiff in San Francisco from Salt Lake City. During these calls and visits, he committed the fraudulent misrepresentations listed in "Statement of Undisputed Material Facts" ¶ 7 to induce the plaintiff to advance him the Loan Amount. Greene Affidavit ¶¶ 10-11.

Defendant also tortiously caused injury in this state. The defendant fraudulently misrepresented the facts listed in "Statement of Undisputed Material Facts" ¶ 7 to the plaintiff in Salt Lake in person. Greene Affidavit ¶¶ 10-12. Since January 1, 1995 plaintiff has been a resident of Salt Lake City, Greene Affidavit ¶ 1, and has been tortiously damaged by defendant's fraudulent misrepresentations and breach of fiduciary duty in the amount of \$3,987,426.00. See Greene

Affidavit ¶¶ 2, 8. Telephone calls initiated by an out-of-state defendant and causing tortious injury in this state alone have been found to be sufficient basis for jurisdiction and meet the requirements of due process. See Berrett v. Life Ins. Co. of the Southwest, 623 F.Supp. 946, 948-51 (D. Utah 1985). Here, the defendant not only committed fraudulent misrepresentation and breach of fiduciary duty in person in Utah, but also while he lived in or visited Utah. Clearly, Utah courts have sufficient basis for jurisdiction over the defendant.

Venue in this district is also appropriate because all or part of this cause of action arose in this County, as described above, and because plaintiff is a resident of Salt Lake County. Green Affidavit ¶ 1; see Utah Code Ann. § 78-13-7 (1992). The Utah Code provides that venue is appropriate "in the county in which the cause of action arises" or, "[i]f none of the defendants resides in this state, such action may be commenced and tried in any county which the plaintiff may designate in his complaint." Utah Code Ann. § 78-13-7 (1992). As defendant was a resident of Pennsylvania at the time the Complaint was filed, "Statement of Undisputed Material Facts" ¶ 2, venue is appropriate in Salt Lake both because all or part of the events giving rise to the cause of action happened in Salt Lake County and because plaintiff designated Salt Lake County in his Complaint. Complaint ¶ 3; see Utah Code Ann. § 78-13-7 (1992).

II. Defendant Committed Fraudulent Misrepresentation and Breached his Fiduciary Duty in Obtaining Advances from Plaintiff

The facts establishing defendant's fraudulent misrepresentation and breach of fiduciary duty in obtaining \$3,987,426.00 from plaintiff are uncontested. See "Statement of Undisputed Material Facts" ¶¶ 5-12. As there is no genuine issue of material fact, summary judgment should be ordered

where plaintiff is entitled to judgment as a matter of law. Utah R. Civ. P. 56. Based on these undisputed facts, plaintiff is entitled to judgment as a matter of law on defendant's breach of fiduciary duty and fraud.

Defendant's fiduciary duty arose from the relationship of trust he enjoyed with plaintiff as plaintiff's son-in-law at the time of the misrepresentation and fraud. The Utah Supreme Court has explained that a fiduciary or confidential relationship may be created "by circumstances where equity will imply a higher duty in a relationship because the trusting party has been induced to relax the care and vigilance he would ordinarily exercise." Hal Taylor Associates v. Unionamerica, Inc., 657 P.2d 743, 749 (Utah 1982); see also First Security Bank, N.A. v. Banberry Development Corp., 786 P.2d 1326, 1333 (Utah 1990). In loaning money to his trusted son-in-law, the plaintiff did not exercise the care and vigilance he would have in making a loan to a stranger. See Greene Affidavit ¶¶ 9, 12. Defendant took advantage of plaintiff's trust and confidence, their family relationship, and plaintiff's ignorance of defendant's financial affairs in inducing plaintiff to make advances based on material misrepresentations. See Greene Affidavit ¶¶ 9-12. Defendant thus abused plaintiff's trust and confidence and breached his fiduciary duty.

In addition to breaching his fiduciary duty, the defendant committed fraud. The Utah Supreme Court has set forth nine elements of fraud:

- (1) that a representation was made (2) concerning a presently existing material fact (3) which was false and (4) which the representor either (a) knew to be false or (b) made recklessly, knowing that there was insufficient knowledge upon which to base such a representation, (5) for the purpose of inducing the other part to act upon it and (6) that the other party, acting reasonably and in ignorance of its falsity, (7) did in fact rely upon it (8) and

was thereby induced to act (9) to that party's injury and damages. (citations omitted)

Educators Mut. Ins. Ass'n v. Allied Property and Casualty Ins. Co., 890 P.2d 1029, 1032 (Utah 1995).

Defendant made the false representations concerning the material facts listed in "Statement of Undisputed Material Facts" ¶¶ 5-12 with a knowledge of their falsity in order to induce plaintiff to advance him money and pay off his obligations. See Greene Affidavit ¶¶ 10-11. Plaintiff, acting in ignorance of the falsity of the claims, materially and detrimentally relied on the defendant's misrepresentations and advanced him an amount not less than \$3,987,426.00. See Greene Affidavit ¶¶ 2, 8, 12. Defendant's conduct thus meets all the required elements of fraud and breach of fiduciary duty.

III. The Court Should Draw an Adverse Inference from Defendant's Refusal to Testify and Enter Summary Judgment in Favor of Plaintiff and Against Defendant

Rather than respond to plaintiff's allegations of fraud and breach of fiduciary duty, defendant has invoked his rights under the Fifth Amendment to the United States Constitution and refused to respond to Mr. Greene's substantive allegations. The Court should draw an adverse inference from defendant's refusal to testify. Although defendant has a right to invoke the Fifth Amendment and refuse to respond on the grounds that his statement may tend to incriminate him in criminal proceedings and investigations presently pending against him, such refusal entitles this Court to draw an adverse inference from his refusal to testify.

In Baxter v. Palmigiano, 425 U.S. 308 (1976), a prison inmate refused to testify in a prison disciplinary proceeding. The inmate's refusal, together with other evidence, led to punitive sanctions

by the prison's Disciplinary Board. On appeal, the Supreme Court upheld "the prevailing rule that the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them." 425 U.S. at 318.

Thus, although defendant in this civil case can claim the Fifth Amendment and refuse to deny his acts of misrepresentation and breach of fiduciary duty, he cannot escape the adverse inference of liability that his refusal entails.¹

The Utah federal district court clearly explained the principle of adverse inference in Hughes Tool Co. v. Meier, 489 F.Supp. 354 (D. Utah 1977). In Meier, the defendant invoked the Fifth Amendment to justify his refusal to provide a court-ordered accounting. The court granted a final judgment against the defendant, holding:

The adverse inference that may be drawn under these circumstances, from [defendant's] failure to answer, strengthens the probative value of plaintiff's evidence, without putting words in defendant's mouth in violation of his Fifth Amendment rights.

489 F.Supp. at 374. The court further explained that to deny a final judgment in such a case would "produce entirely unacceptable results, in that a plaintiff in a civil matter could be deprived of his right to a judgment whenever a defendant invoked the Fifth Amendment privilege in an action where he has the burden to answer." 489 F.Supp. at 375.

¹The Tenth Circuit has described the effect of adverse inference in this way: "The individual petitioners unquestionably may assert a Fifth Amendment privilege in this civil case and refuse to reveal information properly subject to the privilege, in which event they may have to accept certain bad consequences that flow from that action." Mid-America's Process Service v. Ellison, 767 F.2d 684, 686 (10th Cir. 1985) (citations omitted).

The Utah Supreme Court has held that an adverse inference from defendant's invocation of the Fifth Amendment, along with other evidence, is sufficient basis to grant summary judgment. In Gerard v. Young, 432 P.2d 343 (Utah 1967), summary judgment was awarded to the plaintiff when the defendant originally denied the allegations of illegal gambling but then claimed the Fifth Amendment and refused to answer in a deposition. The Supreme Court has cited Gerard for the proposition that

where, on a motion for summary judgment, a plaintiff establishes through independent, uncontroverted evidence that he is entitled to summary judgment, a defendant cannot avoid a summary judgment by claiming the privilege against self-incrimination.

First Federal Savings & Loan Association v. Schamanek, 684 P.2d 1257, 1268 (Utah 1984).

Here, plaintiff has provided uncontroverted evidence of defendant's repeated misrepresentations and breaches of fiduciary duty. This evidence is strengthened by the adverse inference of liability from defendant's refusal to answer. Based on the undisputed evidence, this Court should, as a matter of law, vindicate plaintiff's right to a judgment and grant summary judgment for the plaintiff.

IV. Enid Greene Is Not an Indispensable Party

Defendant alleges that plaintiff's Complaint failed to join Enid Greene as an indispensable party, but Ms. Greene is neither necessary nor indispensable to this action. See Answer, 3d Affirmative Defense; Utah R. Civ. P. 19. Determining indispensability under Rule 19 requires a two-step process: first assessing whether the party is necessary under 19(a) and then considering the question of indispensability raised in 19(b). See Utah R. Civ. P. 19; Landes v. Capital City Bank, 795 P.2d 1127, 1130 (Utah 1990).

Rule 19(a) provides two general factors for determining whether a party is necessary:

(1) if in [the party's] absence complete relief cannot be accorded among those already parties, or (2) [the party] claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest.

Utah R. Civ. P. 19. The Utah Supreme Court summarized Rule 19(a) in defining a necessary party as "one whose presence is required for a full and fair determination of his rights as well as of the rights of the other parties to the suit." Cowen and Co. v. Atlas Stock Transfer Co., 695 P.2d 109, 114 (Utah 1984) (citations omitted).

In this action for defendant's fraud and breach of fiduciary duty, the interest of Ms. Greene is not implicated, nor is her presence necessary to determine the rights of plaintiff and defendant.

Plaintiff can obtain complete relief for defendant's fraud and breach of duty from defendant without joining Ms. Greene. Ms. Greene's absence will not prejudice her nor any of the parties to the action.²

As Ms. Greene is not a necessary party, further analysis is unnecessary. "Only if we first find the [third party] to be a necessary party can we properly proceed to the 19(b) question of indispensability." Landes v. Capital City Bank, 795 P.2d 1127, 1130 (Utah 1990). Defendant's

²Defendant's allegation that Ms. Greene is an indispensable party is completely baffling. Plaintiff is here alleging defendant's tortious acts. Even if Ms. Greene were a joint tortfeasor, she would only be a permissive party, not a necessary one. See Fed. R. Civ. P. 19 advisory committee's note; Jean F. Rydstrom, Annotation, Who Must Be Joined in Action as Person "Needed for Just Adjudication" Under Rule 19(a), Federal Rules of Civil Procedure 22 A.L.R. Fed. 765, 836-37 § 17 (1975).

allegation that Ms. Greene is an indispensable party is without merit, as she is not even a necessary party to the action.

CONCLUSION

This Court has proper jurisdiction over the defendant through his transaction of business and creation of tortious injury in Utah. Defendant committed breach of fiduciary duty and fraud in inducing plaintiff, his father-in-law, to advance him \$3,987,426.00. Defendant's failure to deny these allegations and invocation of the Fifth Amendment give rise to an adverse inference of his liability. Based on the evidence of fraud and breach of fiduciary duty combined with this adverse inference, plaintiff respectfully requests that the Court enter an order of Summary Judgment in favor of plaintiff.

DATED this 27th day of June, 1996.

HOLME ROBERTS & OWEN LLC

By: 

Brent V. Manning

Attorneys for plaintiff D. Forrest Greene

FILED

'96 JUN 27 AM 11 29

THIRD DISTRICT COURT

BY

DEPUTY CLERK

HOLME ROBERTS & OWEN LLC

Brent V. Manning #2075

111 East Broadway, Suite 1100

Salt Lake City, Utah 84111

Telephone: 521-5800

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR

SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

MOTION FOR SUMMARY
JUDGMENT AND REQUEST
FOR HEARING

Civil No. 960903017

Judge Anne M. Stirba

Pursuant to Rule 56 of the Utah Rules of Civil Procedure and Rule 4-501(2) of the Utah Code of Judicial Administration, plaintiff D. Forrest Greene respectfully applies to the Court for entry of an Order of Summary Judgment in favor of plaintiff because there is no genuine issue of material fact and because plaintiff is entitled to judgment as a matter of law. A Memorandum of Points and Authorities in Support of this Motion is filed contemporaneously herewith.

Pursuant to Rule 4-501(3) of the Utah Code of Judicial Administration, plaintiff respectfully requests a hearing on this Motion.

DATED this 27th day of June, 1996.

HOLME ROBERTS & OWEN LLC

By: 

Brent V. Manning

Attorneys for Plaintiff D. Forrest Greene

CERTIFICATE OF SERVICE

I hereby certify that I caused to be hand delivered the foregoing Motion for Summary Judgment and Request for Hearing; Memorandum in Support of Motion for Summary Judgment and Affidavit of D. Forrest Greene, this 27th day of June, 1996, to:

Gregory G. Skordas
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, UT 84111

A handwritten signature in cursive script, appearing to read "Randall Johnson", is written over a horizontal line.

Gregory G. Skordas (3865)
WATKISS DUNNING & WATKISS, P.C.
Broadway Centre, Suite 800
111 East Broadway
Salt Lake City, Utah 84111-2304
Telephone: (801) 530-1500
Facsimile: (801) 530-1520
Attorneys for Defendant

FILED

'96 JUN 7 PM 12 25

THIRD DISTRICT COURT

BY *Greg Koch*
DEPUTY CLERK

**In The Third Judicial District Court
Salt Lake County, State Of Utah**

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

ANSWER

Civil No. 960903017CV

Judge Anne M. Stirba

The Defendant, Joseph P. Waldholtz, by and through his attorney Gregory G. Skordas and pursuant to Rule 12 of Utah Rules of Civil Procedure hereby responds to the Plaintiff's Complaint on file herein and alleges as follows:

1. Defendant states that he is without knowledge sufficient to admit or deny the allegations contained in paragraph 1 of the Plaintiff's Complaint, and therefore denies the same.
2. Defendant states that he is presently residing in Pennsylvania but denies the remaining allegations contained in paragraph 2 of Plaintiff's Complaint.
3. Defendant denies the allegations contained in paragraph 3 of Plaintiff's Complaint.
4. Defendant denies the allegations contained in paragraph 4 of Plaintiff's Complaint.

5. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

6. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

7. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

8. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him

regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

9. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

10. Defendant presently refuses to respond to the allegations in this paragraph of Plaintiff's Complaint and invokes his rights under the Fifth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of Utah on the ground that any statement made by him regarding this matter may tend to incriminate him in those criminal proceedings and investigations presently pending against him.

FIRST AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over the person of the Defendant. The acts complained of herein did not occur in the jurisdiction of this Court.

SECOND AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.


THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to join an indispensable party, to wit Enid Greene.

WHEREFORE, having fully answered Plaintiff's Complaint on file herein Defendant respectfully requests that the same be dismissed with prejudice and that he receive his costs for defending this action.

DATED this 6 day of June, 1996.

WATKISS DUNNING & WATKISS, P.C.



Gregory G. Skordas

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 1996, I hand delivered a true and correct copy of the foregoing ANSWER, to the following:

Brent V. Manning
Holme Roberts & Owen
111 East Broadway, Suite 1100
Salt Lake City, UT 84111

Christa True
Watkiss Dunning & Watkiss, P.C.

HOLME ROBERTS & OWEN LLC
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: 521-5800

FILED
DISTRICT COURT
96 MAY 10 AM 11:11
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY Sally Koch
DEPUTY CLERK

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

SUMMONS

JUDGE ANNE M. STIRBA

Civil No. 960903017

THE STATE OF UTAH TO: JOSEPH P. WALDHOLTZ, c/o Allegheny County Jail,
950 Second Avenue, Pittsburgh, Pennsylvania, 15219:

YOU ARE HEREBY SUMMONED and required to file an Answer in writing to the
attached Complaint which has been filed with the Court and is herewith served upon you, with
the Clerk of the Third Judicial District Court for Salt Lake County, State of Utah, at 240 East 400
South, Salt Lake City, Utah, 84111, and to serve upon or mail to Brent V. Manning of Holme
Roberts & Owen LLC, 111 East Broadway, Suite 1100, Salt Lake City, Utah 84111, a copy of
said Answer within thirty (30) days after service of this Summons upon you.

If you fail to do so, judgment by default will be taken against you for the relief demanded in said Complaint, which has been filed with the Clerk of said Court and a copy of which is hereto annexed and herewith served upon you.

DATED this 1st day of May, 1996.

HOLME ROBERTS & OWEN LLC

By: 

Brent V. Manning

Attorneys for Plaintiff, D. Forrest Greene

Serve Defendant:

Joseph P. Waldholtz
Allegheny County Jail
950 Second Avenue
Pittsburgh, Pennsylvania 15219

PROOF OF SERVICE JUDGE ANNE M. STIRBA

CASE: D. Forrest Greene File No. 96080817
DISTRICT COURT
Joseph P. Waldholtz vs. et al plaintiff(s)
et al defendant(s)

SERVICE OF PROCESS ON: Joseph P. Waldholtz
66 MAY 10 AM 11:11
THIRD JUDICIAL DISTRICT
JAIL LAKE COUNTY
JAIL LAKE COUNTY

NAME OF SERVER: ERIC BUTZ
 undersigned, being duly sworn, deposes and says that he was at the time of service, over the age of twenty-one, was not a party to this action.

DATE OF SERVICE: that on the 3 day of May 19 96 at 10 : 25 o'clock A M

PLACE OF SERVICE: at Allegheny County Jail in the city of Pittsburgh state of PA
Summons & Complaint

DOCUMENTS SERVED: the undersigned served the annexed papers. (LIST OF ALL DOCUMENTS SERVED)

PERSON SERVED AND METHOD OF SERVICE:
 A true and correct copy of the aforesaid papers were served on the above-named party or witness in the following manner:
☐ By personally delivering them into the hands of the person to be served _____
☒ (Substitute) By leaving a copy at his/her usual place of abode with some person of suitable age and discretion then residing therein, to wit: James Sweeney/ Prison Guard
☐ By delivering them to an officer or managing agent whose name and title is: _____
 Other _____

DESCRIPTION OF PERSON RECEIVING DOCUMENTS:
 The person receiving documents is described as follows:
 Sex Male ; Skin Color White ; Hair Color Brown ; Facial Hair Mustache
 Age (prox) 35 ; Height (prox) 5' 11" ; Weight (prox) 180
☐ To the best of my knowledge and belief, said person was not engaged in the U.S. Military at the time of service.

PROOF OF DUE & DILIGENT ATTEMPT:
☐ AFTER DUE AND DILIGENT EFFORTS, UNDERSIGNED WAS UNABLE TO EFFECT SERVICE.
☐ FACTS INDICATING DEFENDENT IS AVOIDING SERVICE ARE _____

* DATES OF SERVICE ATTEMPTED	TIMES ATTEMPTED	ADDRESS ATTEMPTED	REASON FOR NON SERVICE
_____	_____ o'clock _____ M	_____	_____
_____	_____ o'clock _____ M	_____	_____
_____	_____ o'clock _____ M	_____	_____

SIGNATURE OF SERVER: Eric Butz Subscribed & sworn to before me this
3rd day of May 19 96
May 3, 1996
 Name of server (date)
 Notarization
☐ Required
☐ Not Required
Notarial Seal
 Robert M. Kresson, Notary Public
 Notary Public, Allegheny County, Pa.
 My Commission Expires Nov. 14, 1998
 Member, Pennsylvania Association of Notaries

EMPIRE INVESTIGATIONS
 "Get The Facts"
 200 University Suite 208
 PITTSBURGH, PENNSYLVANIA 15205
 (412) 971 4046

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6037-7152-40-66

HOLME ROBERTS & OWEN LLC
Brent V. Manning #2075
111 East Broadway, Suite 1100
Salt Lake City, Utah 84111
Telephone: (801) 521-5800

FILED
DISTRICT COURT
95 MAY -3 AM 10:05
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
BY *Sally Koch*

Attorneys for Plaintiff, D. Forrest Greene

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

D. FORREST GREENE,

Plaintiff,

v.

JOSEPH P. WALDHOLTZ,

Defendant.

COMPLAINT

JUDGE ANNE M. STIRBA

Civil No. 960903017C V

D. Forrest Greene, for his cause of action against defendant Joseph P. Waldholtz, alleges as follows:

1. Plaintiff is a resident of Salt Lake County, State of Utah.
2. Defendant Joseph P. Waldholtz ("Waldholtz") is a resident of Pennsylvania presently confined in jail in Allegheny County, Pennsylvania.
3. Venue in this district is appropriate since plaintiff is a resident of Salt Lake County and all or part of this cause of action arose in this County.
4. This Court has jurisdiction over defendant pursuant to Utah Code Ann. § 78-27-24 because defendant was a resident of the State of Utah at the time this cause of action arose.

Defendant conducted business in the State of Utah from which this cause of action arose and defendant caused injury to plaintiff in Utah in part during the time plaintiff was a resident of Utah.

5. Beginning on January 21, 1994 and continuing through October 12, 1995, plaintiff loaned to defendant, or paid obligations of the defendant at defendant's request, amounts totaling \$3,987,426.00 (the "Loan Amount"). A summary of the checks and wire transfers from plaintiff to, or for the benefit of Waldholtz, is attached hereto as Exhibit "A." Documents evidencing each transfer are attached hereto as Exhibit "B."

6. At the time the plaintiff loaned money to, or paid obligations for the benefit of defendant, defendant was married to plaintiff's daughter and occupied a position of trust and confidence with plaintiff giving rise to fiduciary duties by defendant to plaintiff.

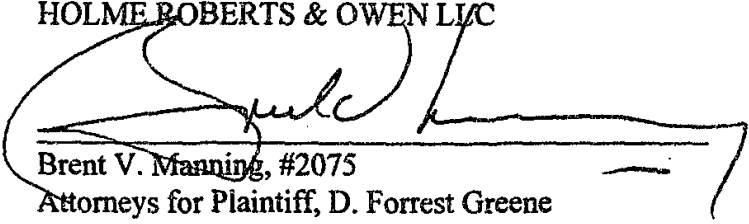
7. Defendant exploited his close family relationship, his position of trust and confidence and breached his fiduciary duty to plaintiff by inducing him to advance the Loan Amount to defendant based upon, but not limited to, the following material misrepresentations, all of which were false when made:

- a. That he was the beneficiary of a Waldholtz Family Trust which had a value of approximately \$325 million (with substantial monthly income for his benefit).
- b. That the money from the Waldholtz Family Trust was temporarily unavailable to Waldholtz but that he would shortly repay all borrowed funds with money from the Waldholtz Family Trust.

WHEREFORE, plaintiff prays that judgment be entered in favor of plaintiff and against defendant Waldholtz in the amount of \$3,987,426.00 plus his costs herein.

DATED this 15th day of May, 1996.

HOLME ROBERTS & OWEN LLC


Brent V. Manning, #2075
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